

By: Staples

S.B. No. 1741

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an exemption for certain interbasin transfers of water
3 from certain priority requirements.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 11.002, Water Code, is amended by adding
6 Subdivision (15) to read as follows:

7 (15) "On-channel reservoir" means an open body of
8 water that is created by a dam or other barrier that obstructs the
9 flow of water in a stream and whose primary source of water is
10 runoff from that stream.

11 SECTION 2. Section 11.085, Water Code, is amended by
12 amending Subsection (s) and adding Subsections (w) and (x) to read
13 as follows:

14 (s) Except as provided by Subsections (w) and (x), any [~~Any~~]
15 proposed transfer of all or a portion of a water right under this
16 section is junior in priority to water rights granted before the
17 time application for transfer is accepted for filing.

18 (w) A proposed transfer that is based on a contractual sale
19 of water is not subject to Subsection (s) if:

20 (1) the contract term is 50 years or less; and

21 (2) the transfer is from an on-channel reservoir that:

22 (A) is located in a basin with a water supply that
23 is equal to or greater than twice the amount determined by the board
24 to be necessary to supply the reasonably foreseeable water

1 requirements of the basin of origin for the next 50 years; and

2 (B) has sufficient storage capacity to yield the
3 supply authorized by the water right in the event of a drought equal
4 in severity and duration to the drought of record.

5 (x) The term of a contract under Subsection (w) may be
6 extended after the expiration of the contract if:

7 (1) the conditions in Subsection (w)(2) continue to be
8 satisfied; or

9 (2) the purchaser under the contract agrees to locate
10 a source of water to replace the water transferred and to pay the
11 costs of replacing the water.

12 SECTION 3. Section 11.085, Water Code, as amended by this
13 Act, applies only to an application for a water right or an
14 amendment to a permit, certified filing, or certificate of
15 adjudication authorizing an interbasin transfer of water that is
16 accepted for filing on or after the effective date of this Act. An
17 application for a water right or an amendment to a permit, certified
18 filing, or certificate of adjudication authorizing an interbasin
19 transfer of water that is accepted for filing before the effective
20 date of this Act is governed by the law in effect at the time the
21 application is accepted for filing, and the former law is continued
22 in effect for that purpose.

23 SECTION 4. This Act takes effect September 1, 2005.